

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,

Plaintiff,  
v.

Case No.: 07-CR-29

JAMAL MARTIN,

Defendant.

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OBJECTIONS TO THE PRESENTENCE REPORT

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NOW COMES the Defendant, JAMAL MARTIN, by and through his Attorney of Record, MICHAEL J. STEINLE, upon all the files, records and proceedings heretofore had herein, and respectfully objects to the presentence report in the following respects:

(1) Item #59, Page 12: The Defendant believes that the two point enhancement pursuant to U.S.S.G. 2A2.2(6) is a double counting for the use of the firearm as he was enhanced four levels pursuant to 2A2.2(b) (2)A. In short, 18 U.S.C. §111(b) cannot be necessarily plead and proved by the Government in this case without the discharge of the firearm. In this case, under these facts, these two enhancements unnecessarily increase the base level by two points.

(2) The Defendant believes that he is entitled to the limitations of the mandatory minimum sentence pursuant to U.S.S.G. §5C1.2 as to Count One. Count One and Count Two are two completely separate and unrelated crimes. The Defendant's actions and participation in the conspiracy to distribute marijuana ceased long before his arrest. The conspiracy had ended with the arrest of Reginald Bickham on September 9, 2006.

The Defendant was arrested on May 16, 2007. There is no evidence that the Defendant continued to sell marijuana after Bickham's arrest. It has never been alleged that the Defendant had a gun as part of the marijuana case. The Government also has acknowledged that there were no drugs found at the Defendant's house nor was there any evidence indicating that the Defendant owned the firearm for anything other than protection of his home.

It should also be noted that the Counts are not even grouped together pursuant to U.S.S.G. 3D1.2.

Dated at Milwaukee, Wisconsin, this 5<sup>th</sup> day of May 2008.

Respectfully Submitted,

TERSCHAN, STEINLE & NESS

/s/ Michael J. Steinle  
Michael J. Steinle  
Attorney for Jamal Martin  
State Bar No.: 1018859

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